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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

JERRY LEE DOUGLAS,
Petitioner,
vs.
SUPERINTENDENT ZEE HYDEN,
Respondent.

Case No. 3:03-cv-0221-JWS

**MOTION FOR ORDER TO
STATE COURT DIRECTING
RETRIAL OR RELEASE OF
HABEAS PETITION**
Filed on Shortened Time

Petitioner, JERRY LEE DOUGLAS, by and through counsel Mary C. Geddes, Assistant Federal Defender, now moves this court for an order directing the State of Alaska for the retrial or release of Mr. Douglas within 30 days. The motion is filed on shortened time due to the custodial status of Petitioner.

Mr. Douglas had asked this court for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Yesterday, the court granted the writ in a written order, finding that Mr. Douglas's trial counsel had failed to provide constitutionally effective assistance at trial. Dkt. 121. Because the court order, in effect, vacates Mr. Douglas's conviction in 3ANS-99-

4292 CR, Mr. Douglas's case should now be returned to the trial court for further proceedings, such as a retrial or a dismissal of his case.

This court has the authority to order a "conditional release or retrial." *See*, e.g., *Herrera v. Collins*, 506 U.S. 390, 403 (1993). This order would direct the state to retry Mr Douglas or release him within a specified amount of time.

The undersigned proposes a period of 30 days in light of Mr. Douglas's continued incarceration by the Alaska Department of Corrections. DOC Officer Mary Sandy, responsible for the Time Accounting for Spring Creek Correctional Center, informed the undersigned today that – without the conviction and sentence in 3AN99-4292 CR – Mr. Douglas's incarceration would have ended on August 29, 2006. The undersigned provided this information concerning Officer Sandy's calculations to Respondent's attorney, Blair Christensen, earlier this morning.

DATED this 6th day of March, 2007.

Respectfully submitted,

**FEDERAL PUBLIC DEFENDER
FOR THE DISTRICT OF ALASKA**

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Certification:

I certify that on March 6, 2007, a copy of the foregoing document, with attachments, was served electronically on:

Blair M. Christensen, Esq.
Office of Special Prosecutions and Appeals
310 K Street, Suite 308
Anchorage, AK 99501

/s/ Mary C. Geddes